

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAURA K. and PHILLIP K. as parents No. 07 CIV.10536
And best friends of their infant
Daughter "C", ANGELA M. AND MICHAEL
M., as parents and best friends of Assigned to: Hon.
Their infant daughter "M", and KATHY William C. Connor
D. and JOSEPH D. as parents and best
Friends of their infant daughter "J",

Plaintiffs,

-against-

ANSWER WITH
CROSS-CLAIM

JANA RINALDO, individually, RHONDA
HUEMANN, individually, JANE DOE,
individually, MARY ROE, individually,
and the YWCA, a non-profit association,
BRIAN ROBBINS, individually and in his
capacity as a Detective in the Police
Department of the City of White Plains,
N.Y., ERIC FISHER, Individually and in
his capacity as a Detective Sergeant
in the Police Department of the City
of White Plains, N.Y., and ANNE FIZSIMMONS,
individually and in her capacity as
Assistant Chief of Police of the Police
Department of the City of White Plains,
N.Y.,

Defendants.

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JOSEPH A. MARIA, P.C., as attorneys for BRIAN ROBBINS,
individually and in his capacity as a Detective in the
Police Department of the City of White Plains, N.Y., ERIC
FISHER, Individually and in his capacity as a Detective
Sergeant in the Police Department of the City of White

Plains, N.Y., and ANNE FIZSIMMONS, individually and in her
capacity as Assistant Chief of Police of the Police

Complaint of the Plaintiffs as follows:

FIRST: Denies each and every allegation contained in paragraphs designated: 1, 20, 21, 22, 24, 26, 28, and 30.

SECOND: Denies knowledge and information to form a belief as to each and every allegation contained in paragraphs designated: 3, 4, 5, 6, 7, 8, 9, 13, 14, 15, 16, 17, and 18.

THIRD: Denies each and every allegation, but leaves all question of law to the Court, in paragraphs designated: 2.

FOURTH: This answering defendant repeats and realleges all of the above denials and denies knowledge and information set forth in paragraphs designated: 23, 25, 27, and 29.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

FIFTH: That the defendants, acted in compliance with all applicable laws with just and probable cause.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE
AND/OR IN DIMINUTION OF DAMAGES

SIXTH: That if the plaintiff sustained any injuries or damages, said injuries or damages were caused or contributed to by the negligence, culpable conduct, assumption of risk, or fault of the plaintiff, and were not caused or contributed to by the negligence, fault or want of care on the part of the answering defendants, or were caused by persons or parties for whose acts or omissions the answering defendants are not responsible or liable.

AS AND FOR A THIRD AFFIRMATIVE
DEFENSE, OR IN DIMINUTION OF DAMAGES

SEVENTH: That if any of the acts complained of in the complaint are found to have been committed by the trier of fact, said acts were justified in that the actor or actors had reasonable grounds to believe that his or their acts were reasonably justified, pursuant to law, without malicious intent, or were a reasonable response to

plaintiffs acts or were in defense of person or property or in response to provocation or were to preserve the public peace or were with just or probable cause.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

EIGHTH: If it is shown that the statement or conduct alleged to have been made or undertaken by the defendants were in fact made, such statement or conduct was privileged and/or was made or undertaken by said defendants in good faith, without malice and with just and probable cause.

NINTH: That the statements or conduct alleged to have been made or undertaken by the defendants concerned subjects in which said defendants had an interest and were made to persons also having an interest in the subject of the statements or conduct and to whom said defendants had a duty to speak and/or report.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

TENTH: If it is shown that the defendants spoke of and concerning the plaintiffs, as alleged in the plaintiffs' complaint, such statements were justified, were based upon reasonable investigation, or were true.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

ELEVENTH: The actions of the Police Department were justified at all times in this matter.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

TWELFTH: The defendant(s) herein are protected by partial or complete immunity therefore, this matter must be dismissed.

AS AND FOR A CROSS CLAIM BY THIS DEFENDANT
AGAINST CO-DEFENDANT(S) HEREIN, THIS
DEFENDANT ALLEGES:

That if plaintiffs were caused to sustain damages at the time and place set forth in plaintiffs' Complaint due

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to the carelessness, recklessness, negligence, and/or
breach of warranty other than plaintiffs' own carelessness,
recklessness, and negligence, said damages were sustained
by reason of the carelessness, recklessness, negligence

and/or acts of omission or commission and/or breach of
warranty, and/or breach of contract, and/or breach of hold
harmless or indemnification agreement by co-defendant named
in this action, their agents, servants and/or employees.
And if any judgment is recovered herein by plaintiffs
against this defendants, it will be responsible therefore
in whole or in part. (These defendants beg leave to refer
to the full terms of said agreements at the time of trial.)
That by reason of the foregoing, co-defendants named herein
will be liable to these defendants in the event and in the
full amount of any recovery had herein by the plaintiffs or
for that proportion thereof caused by the relative
responsibility of each of the co-defendants herein, and the
said co-defendants will be bound to pay any and all fees
and disbursements.

WHEREFORE, this defendant demands judgment dismissing
the complaint herein as to this defendant with costs and
disbursements; and further demands that the ultimate rights
of this defendant and of the co-defendant named herein as

between themselves be determined in this action and that this defendant have judgment over and against the co-defendant named herein for all, or for that portion of any verdict or judgment which may be obtained herein by the plaintiff against this defendant to the extent that the responsibility of the co-defendant contributed thereto, together with the costs and disbursements of this action.

Dated: White Plains, New York
December 19, 2007

Joseph A. Maria (JM0209)
JOSEPH A. MARIA, P.C.
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File No. 33-0778